

Message Text

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ACTION SCS-03

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FBIE-00 JUSE-00 CIAE-00 INR-07 NSAE-00 SSO-00 INRE-00

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FM AMEMBASSY NEW DELHI

TO UUENC/SECSTATE WASHDC IMMEDIATE 6695

INFO AMCONSUL CALCUTTA IMMEDIATE

C O N F I D E N T I A L NEW DELHI 1658

E.O. 11652: GDS

TAGS: CASC, PFOR, IN

SUBJECT: DRAFT DIPLOMATIC NOTE ON THE HARCOS/FLETCHER CASE

1. THE EMBASSY IS TRANSMITTING BELOW FOR THE DEPARTMENT'S CONSIDERATION THE TEXT OF A DRAFT NOTE ON THE HARCOS/FLETCHER CASE. THE PROPOSED NOTE CALLS THE ATTENTION OF THE MINISTRY OF EXTERNAL AFFAIRS TO SEVERAL ASPECTS OF THE CASE WHICH HAVE BEEN TROUBLING US IN RECENT MONTHS. WITH THE DEPARTMENT'S CONCURRENCE, WE PLAN TO PRESENT IT TO THE MEA AT AN APPROPRIATE LEVEL AT THE END OF THIS WEEK OR THE BEGINNING OF NEXT. DEPARTMENT'S COMMENTS WOULD BE APPRECIATED BY OPENING OF BUSINESS FEBRUARY 7.

2. BEGIN TEXT: THE EMBASSY OF THE UNITED STATES OF AMERICA PRESENTS ITS COMPLIMENTS TO THE MINISTRY OF EXTERNAL AFFAIRS, RECALLS THE EMBASSY'S AIDE MEMOIRE DATED SEPTEMBER 4, 1974, AND WISHES TO EXPRESS ITS DEEP CONCERN AT THE EXTENDED INVESTIGATORY AND JUDICIAL PROCESSES WHICH HAVE RESULTED IN

THE TWENTY-TWO MONTH DETENTION IN CALCUTTA OF THE AMERICAN CITIZENS RICHARD HARCOS AND ANTHONY FLETCHER.

3. AS THE MINISTRY IS AWARE, THE TWO AMERICANS WERE ARRESTED BY THE AUTHORITIES OF THE GOVERNMENT OF WEST BENGAL

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ON APRIL 26, 1973. SOME EIGHTEEN MONTHS LATER, ON OCTOBER

11, 1974, THEY WERE SHOWN FOR THE FIRST TIME A DOCUMENT CHARGING THEM WITH VIOLATIONS OF THE OFFICIAL SECRETS ACT. IN THE INTERVENING MONTHS, THE PROSECUTION STRENUOUSLY OPPOSED EFFORTS BY THE DEFENSE ATTORNEYS TO SECURE THE ORDINARY BENEFITS OF FAIR TREATMENT AND CONSULAR PROTECTION FOR THE DEFENDANTS, BY PROTESTING AGAINST BAIL AND ENDEAVORING TO DENY THE AMERICAN CONSULAR OFFICER ACCESS TO THE PRISONERS AND THE PRE-TRIAL PROCEEDINGS, AMONG OTHER ACTIONS.

4. DESPITE ASSURANCES OFFERED A YEAR AGO BY GOVERNMENT OF INDIA OFFICIALS THAT THE TWO AMERICANS WOULD BE BROUGHT TO AN EARLY AND EXPEDITIOUS TRIAL, THE PROSECUTION HAS YET TO PRESENT ITS CASE TO THE COURT. MOREOVER THE PROSECUTION HAS CONTINUED TO RESIST EFFORTS BY THE DEFENDANTS AND THEIR ATTORNEYS TO OBTAIN A WRITTEN, DETAILED DESCRIPTION OF THE SPECIFIC CHARGES OF WHICH THEY ARE ACCUSED. DESPITE THE BEST EFFORTS OF THE DEFENSE, ONE POSTPONEMENT AFTER ANOTHER IN THE PRE-TRIAL AND COURT PROCEEDINGS HAS NECESSARILY RESULTED.

5. IT IS GENERALLY RECOGNIZED THAT PERSONS ARRESTED AND TRIED IN FOREIGN JURISDICTIONS ARE ENTITLED TO CERTAIN FUNDAMENTAL RIGHTS. INCLUDED AMONG THESE RIGHTS IS THAT OF A JUST TRIAL WITHOUT DELAY. THE EMBASSY RESPECTFULLY REQUESTS THE MINISTRY OF EXTERNAL AFFAIRS TO TAKE SUCH ACTIONS AS ARE NECESSARY TO ENSURE THAT SUCH RIGHTS ARE UPHELD IN THIS CASE. END TEXT.
SCHNEIDER

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